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SECRETARY, BOARD OF
OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH

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IN THE MATTER OF FORMAL
RULEMAKING TO REPEAL AND RE-
ENACT AS MODIFIED THE OIL AND
GAS REGULATORY PROGRAM RULE
FOR REPORTING OF UNDESIRABLE
EVENTS, R649-3-32

DIVISION'S REQUEST TO
COMMENCE FORMAL
RULEMAKING

DOCKET NO. 2016-019
CAUSE NO. RO&G-2016-01

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The Division of Oil, Gas & Mining ("Division") hereby requests that the Board of Oil, Gas & Mining ("Board") commence formal rulemaking to repeal and re-enact as modified the Utah Administrative rule R649-3-32, Reporting of Undesirable Events. The Division hereby requests that the Board commence formal rulemaking of the proposed changes attached to this Request in accordance with the requirements of the Utah Administrative Rulemaking Act, Utah Code §§63G-3-101 et seq. (2016), schedule a public hearing, and take such action as required to formally repeal the existing Administrative rule R649-3-32 and enact the proposed Administrative rule R649-3-32, Incident Reporting.

Background

During the briefing for the April 27, 2016 Board Hearing, the Board was asked by Kinder Morgan Altamont LLC (Kinder Morgan) to consider amending the current rule R649-3-32, Reporting of Undesirable Events. The impetus for the request was ambiguity concerning reporting requirements for minor events, due to language in the rule requiring reporting of "all" events, and language elsewhere

identifying major and minor event reporting requirements. Kinder Morgan also noted that the rule applies equally to oil and gas production at the well, and to gathering and processing operations, and that reporting of flaring for gathering and processing companies was not appropriate and should be removed from the rule. In addition, Kinder Morgan requested that the threshold for major events should be raised from 500 mcf of gas to 3000 mcf. Kinder Morgan represented that the changes would bring Utah's reporting requirements into alignment with other state reporting requirements.

The Board directed the Division to meet with Kinder Morgan and to initiate the informal rule-making process to consider the proposed changes. The Division met in June 2016 with Kinder Morgan, the School and Institutional Trust Lands Administration (SITLA), and other representatives of the oil and gas industry including the Utah Petroleum Association and Western Energy Alliance. During these discussions, the Division proposed changes that would modify reporting of liquid spills including changing the amounts that mandated reporting, add reporting for the release of gas containing more than 100 ppm of hydrogen sulfide, and address the differences between production operations and gathering and processing operations. In addition, the format of the rule was changed to clarify the rule. Due to the extensive amount of editing, it was determined that the prior rule should be repealed and the new rule enacted. A new heading is proposed that is more consistent with the language and intent of revised rule.

A draft of the proposed changes to R649-3-32 was circulated to the Board prior to the July Board Hearing. The Division's Informal Rules Review Group was also provided an opportunity to comment on the rule proposal during the period of July 27, 2016 to August 15, 2016. During the briefing for the August 24, 2016 Board Hearing, the Division advised the Board that as a result of the informal rule-making process, it was ready to proceed with formal rulemaking for the changes in the rule consistent with the previously presented draft, with one additional change. That change involved removing "immediately" from the proposed reporting requirement for hydrogen sulfide events, which would still be subject to the 24-hour reporting requirement. The Board expressed no objections to the Division proceeding with the formal rulemaking process for the proposed rule change.

Relief Requested

The propose changes are shown on the attachment to this Notice of Agency Action. The current R649-3-32 language is shown as a strike-out and the proposed changes for the reenacted rule are shown as underlined in the attachment. Based on the Board's direction at the August briefing, the Division filed the proposed rule changes with the Office of Administrative Rules via an eRules filing on August 26, 2016. The proposed rules will appear in the Utah State Bulletin on September 15, 2016. A minimum 30-day comment period extending through October 17, 2016 is required by the Utah Administrative Rulemaking Act. Assuming no substantive changes are made to the rules as proposed, the Board could grant its final approval of the rules at the regular hearing day on October 26, 2016 and the modified R649-3-32 is proposed to be effective on November 1, 2016, as it would meet the requirement of no fewer than seven calendar days after the close of the public comment period.

The Division requests that the Board commence formal rulemaking, proceed to file the rules for repeal and reenactment of Rule R649-3-32 Utah Administrative Code with the Office of Administrative Rules, schedule an opportunity for public hearing on the proposed rules at its hearing on September 28, 2016 , and after consideration of all comments and compliance with all requirements of the Rulemaking Act, take such further action as it finds appropriate to adopt, amend or reject the rules as proposed.

DATED this 30th day of August, 2016.



Steven F. Alder,
Assistant Attorney General
Utah Division of Oil, Gas, & Mining

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing DIVISION'S REQUEST TO COMMENCE FORMAL RULEMAKING for Docket No. 2016-019, Cause No. RO&G-2016-01 to be mailed with postage prepaid, this 31st day of August, 2016, to the following:

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R649. Natural Resources; Oil, Gas and Mining; Oil and Gas.

R649-3. Drilling and Operating Practices.

~~R649-3-32. Reporting of Undesirable Events.~~

~~1. The division shall be notified of all fires, leaks, breaks, spills, blowouts, and other undesirable events occurring at any oil or gas drilling, producing, or transportation facility, or at any injection or disposal facility.~~

~~2. Immediate notification shall be required for all major undesirable events as outlined in R649-3-32-5.~~

~~2.1. Immediate notification shall mean a verbal report submitted to the division as soon as practical but within a maximum of 24 hours after discovery of an undesirable event.~~

~~2.2. A complete written report of the incident shall also be submitted to the division within five days following the conclusion of an undesirable event.~~

~~2.3. The requirements for written reports are specified in R649-3-32-4.~~

~~3. Subsequent notification shall be required for all minor undesirable events as outlined in R649-3-32-6.~~

~~3.1. Subsequent notification shall mean a complete written report of the incident submitted to the division within five days following the conclusion of an undesirable event.~~

~~3.2. The requirements for written reports are specified in R649-3-32-4.~~

~~4. Complete written reports of undesirable events may be submitted on Form 9, Sundry Notice and Report on Wells. The report shall include:~~

~~4.1. The date and time of occurrence and, if immediate notification was required, the date and time the occurrence was reported to the Division.~~

~~4.2. The location where the incident occurred described by section, township, range, and county.~~

~~4.3. The specific nature and cause of the incident.~~

~~4.4. A description of the resultant damage.~~

~~4.5. The action taken, the length of time required for control or containment of the incident, and the length of time required for subsequent cleanup.~~

~~4.6. An estimate of the volumes discharged and the volumes not recovered.~~

~~4.7. The cause of death if any fatal injuries occurred.~~

~~5. Major undesirable events include the following:~~

~~5.1. Leaks, breaks or spills of oil, salt water or oil field wastes that result in the discharge of more than 100 barrels of liquid, that are not fully contained on location by a wall, berm, or dike.~~

~~5.2. Equipment failures or other accidents that result in the flaring, venting, or wasting of more than 500 Mcf of gas.~~

~~5.3. Any fire that consumes the volumes of liquid or gas specified in R649-3-32-5.1 and R649-3-32-5.2.~~

~~5.4. Any spill, venting, or fire, regardless of the volume involved, that occurs in a sensitive area stipulated on the approval notice of the initial APD for a well, e.g., parks, recreation sites, wildlife refuges, lakes, reservoirs, streams, urban or suburban areas.~~

~~5.5. Each accident that involves a fatal injury.~~

~~5.6. Each blowout, loss of control of a well.~~

~~6. Minor undesirable events include the following:~~

~~6.1. Leaks, breaks or spills of oil, salt water, or oil field wastes that result in the discharge of more than ten barrels of liquid and are not considered major events in R649-3-32-5.~~

~~6.2 Equipment failures or other accidents that result in the flaring, venting or wasting of more than 50 Mcf of gas and are not considered major events in R649-3-32-5.~~

~~6.3. Any fire that consumes the volumes of liquid or specified in R649-3-32-6.1 and R649-3-32-6.2.~~

~~6.4. Each accident involving a major or life-threatening injury.~~

R649-3-32. Incident Reporting.

1. The division shall be notified of major and minor reportable events occurring at any oil or gas drilling, producing, transportation, gathering, or processing facility, or at any injection or disposal facility.

2. Major reportable events include the following:

2.1. Unauthorized release of more than 25 barrels of oil, salt water, oil field chemicals, or oil field wastes.

2.2. Unauthorized flaring, venting, or wasting of:

2.2.1. More than 500 Mcf of gas at any drilling or producing well site, or at any injection or disposal facility; or

2.2.2. More than 1500 Mcf of gas at any transportation, gathering, or processing facility.

2.3. Any fire that consumes the volumes of liquid or gas specified in R649-3-32-2.1 and R649-3-32-2.2.

2.4. Any spill, venting, or fire, regardless of the volume involved, that occurs in a sensitive area, e.g., parks, recreation sites, wildlife refuges, lakes, reservoirs, streams, urban or suburban areas.

2.5. Each accident that involves a fatal injury.

2.6. Each blowout, loss of control of a well.

2.7. Each release of gas containing 100 or more parts per million of hydrogen sulfide (H₂S) that is not controlled.

3. Notification for all major reportable events will include:

3.1. A verbal report submitted to the division as soon as practical but within a maximum of 24 hours after discovery of a reportable event; and

3.2. A complete written report of the incident submitted on the Incident Report Form on the division website within five days following the conclusion of a reportable event.

4. Minor reportable events include the following:

4.1. Unauthorized release of more than five barrels and up to 25 barrels of oil, salt water, oil field chemicals, or oil field wastes.

4.2. Unauthorized flaring, venting or wasting of more than 50 Mcf and up to 500 Mcf of gas at any drilling or producing well site, or at any injection or disposal facility; or

4.3. Unauthorized venting or wasting of more than 50 Mcf and up to 1500 Mcf of gas at any transportation, gathering, or processing facility.

4.4. Any fire that consumes the volumes of liquid or gas specified in R649-3-32-4.1 and R649-3-32-4.2.

4.5. Each accident involving a major or life-threatening injury.

5. Notification for all minor reportable events will include a complete written report of the incident submitted on the Incident Report Form on the division website within five days following the conclusion of a reportable event.

6. Complete written reports of major and minor reportable events shall include:

6.1. The date and time of occurrence and, if immediate notification was required, the date and time the occurrence was reported to the division.

- 6.2. The location where the incident occurred, described by section, township, range, and county.
- 6.3. The specific nature and cause of the incident.
- 6.4. A description of the resultant damage.
- 6.5. The action taken, the length of time required for control or containment of the incident, and the length of time required for subsequent cleanup.
- 6.6. An estimate of the volumes discharged and the volumes not recovered.
- 6.7. The cause of death if any fatal injuries occurred.
- 6.8. Other information as required by the division's Incident Report Form.

8/26/2016